



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/169774

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 2015, under Wis. Stat., §49.45(5), to review a decision by the Northern Economic Support Consortium to discontinue Medicare Premium Assistance, a hearing was held on December 2, 2015, by telephone.

The issue for determination is whether the agency correctly closed petitioner's Special Low-Income Medicare Beneficiary (SLMB) benefits after receiving a report that he was incarcerated.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Northern ES Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Wood County.
2. Petitioner's Medicare Part B payments have been paid through the SLMB program. On October 13, 2015 the agency received notice that petitioner was incarcerated. By a notice dated October 14, 2015, the agency informed petitioner that SLMB would close November 1, 2015 because an incarcerated person is ineligible.

3. Petitioner, although technically incarcerated, was on an electronic monitoring system at home, and thus he remained eligible for SLMB. However, while applying for FoodShare in October, he noted a new address. Because petitioner owned the home at the former address, the agency inquired about the disposition of the former home, and SLMB could not be opened because the value of the former home was over the SLMB asset limit.

DISCUSSION

Qualified Medicare Beneficiary (QMB), SLMB, and SLMB Plus are programs which provide assistance with Medicare Part B premiums for persons whose incomes are over the regular Medical Assistance limits. All three programs pay the entire Part B premium. See the MA Handbook, Appendix 32.1.1 for a full description of the programs.

Inmates are ineligible for Medical Assistance and SLMB. Handbook, Appendices 32.3.1 and 6.9.2. The asset limit for SLMB is \$7,280. Handbook, App. 32.6. Non-home property is counted as an asset. Handbook, App. 16.9. Homestead property is not counted. Handbook, App. 16.8.

The agency erred by discontinuing SLMB due to the incarceration (I note that the Social Security Administration also erred because petitioner's social security was stopped briefly with benefits restored retroactively). However, in the meantime petitioner reported that he had moved, and his homestead property now is considered an asset.

Petitioner testified that he gave the property back to the bank because he could not make payments.

I will order the agency to restore SLMB back to November 1, 2015 if he verifies that he no longer owns the former homestead property.

CONCLUSIONS OF LAW

The agency erred by closing SLMB due to incarceration.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to restore petitioner's SLMB eligibility retroactive to November 1, 2015 if he verifies that he no longer owns his former homestead property. Petitioner must provide the verification within ten days of this decision, and the agency shall take the action within ten days of the verification. If petitioner does not provide verification his SLMB eligibility should remain closed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of December, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 7, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability